



U.S. Department of
Transportation
Office of the Secretary
of Transportation

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST-2004-17468

(filed April 1, 2004)

Application of Polskie Linie Lotnicze LOT S.A. (LOT) for blanket statement of authorization to permit LOT to display the designator code of United Air Lines, Inc. (UA) on flights operated by LOT (1) between any points in Poland and the United States (either nonstop or via third-country points); (2) between any points in Poland in conjunction with services held out by United between the United States and Poland (either nonstop or via third-country points); and (3) between any points in Poland or the United States and any points in a third country.

Approved under assigned authority (14 CFR § 385.13).

Date of Action: April 19, 2004 ¹

Director, Office of International Aviation

This action is subject to the conditions attached. Persons entitled to petition the Department for review of this action under the Department's regulations, 14 CFR § 385.30, should file their petitions within seven days of the date of this action. This action is effective immediately, and the filing of a petition for review will not alter its effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

¹ On September 30, 2003, we granted a related request of United for a blanket statement of authorization to display the designator code of LOT on United flights. See Docket OST-2003-16116.

DOCKET OST-2004-17468

(filed April 1, 2004)

Application of Polskie Linie Lotnicze LOT S.A. (LOT) for blanket statement of authorization to permit LOT to display the designator code of United Air Lines, Inc. (UA) on flights operated by LOT (1) between any points in Poland and the United States (either nonstop or via third-country points); (2) between any points in Poland in conjunction with services held out by United between the United States and Poland (either nonstop or via third-country points); and (3) between any points in Poland or the United States and any points in a third country.

The code-share operations authorized here are subject to the following conditions:

(a) The statement of authorizations will remain in effect only as long as (i) LOT and and/or United continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.

(b) LOT and/or United must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services. Such notices should be filed in Docket OST-2004-17468.²

(c) LOT and/or United must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served and the date on which the service will begin. Such notices should be filed in Docket OST-2004-17468.

(d) The code-sharing operations conducted under this authority must comply with 14 CFR Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected. Further, the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

(e) The authority to operate to third countries is subject to the condition that any service provided under the statement of authorization shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon United rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights;³ and (ii) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the blanket statement of authorization granted here, but that are not then being used by United, the holding of such authority will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(f) The authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

(g) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

² We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

³ The notice in paragraph (c) above can be used for this notification.